

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PHILIP J. TAVERNA,
Plaintiff,

v.

PALMER TOWNSHIP, et al.,
Defendants.

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Case No. 5:20-cv-0812-JDW

ORDER

AND NOW, this 16th day of September, 2020, for the reasons set forth in the Court's accompanying Memorandum, it is **ORDERED** as follows:

1. Defendant Tuskes Homes, Inc.'s Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) (ECF No. 16) is **GRANTED IN PART** and **DENIED IN PART**;

2. Defendant Tuskes Homes, Inc.'s Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 8 (ECF No. 17) is **DENIED**;

3. Defendant Northampton County Election Commission's Motion to Dismiss Plaintiff's Complaint (ECF No. 20) is **GRANTED**;

4. The Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 8(a) and 12(b)(6) Filed on Behalf of Defendant, Palmer Township (ECF No. 24) is **GRANTED IN PART** and **DENIED IN PART**;

5. The Motion by Defendant, Brian A. Dillman, P.E., to Dismiss Plaintiff's Complaint Pursuant to Federal Rules of Civil Procedure 8 and 12(b)(6), and Motion for Permanent Injunction Against Further Litigation (ECF No. 31) is **GRANTED IN PART** and **DENIED IN PART**;

6. The Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 8(a) and 12(b)(6) on Behalf of Defendant, Palmer Township Solicitor, Charles Bruno, Esq. (ECF No. 35) is **GRANTED**; and

7. Plaintiff Philip Taverna's Motions for Leave to Amend the Complaint (ECF Nos. 33-34) are **DENIED WITHOUT PREJUDICE**.

It is **FURTHER ORDERED** that Counts 1-5, 8, and 9 of the Complaint are **DISMISSED WITH PREJUDICE**. In addition, the claims in Count 6 that challenge Palmer Township's Ordinance No. 2007-371 and that assert violations of procedural due process are **DISMISSED WITH PREJUDICE**. Plaintiff may not renew those claims.

It is **FURTHER ORDERED** that Count 7 is **DISMISSED WITHOUT PREJUDICE**. In addition, the portions of Count 6 that assert violations of the Equal Protection Clause are **DISMISSED WITHOUT PREJUDICE**. Plaintiff may seek leave to file an amended complaint that renews these claims, but only if he can make good faith allegations that satisfy the requirements set forth in the Court's Memorandum for these claims.

It is **FURTHER ORDERED** that Plaintiff may pursue his claims against Palmer Township and Tuskes Homes for violations of substantive due process and an unconstitutional taking.

It is **FURTHER ORDERED** that, if Plaintiff wishes to file an amended complaint, he should seek leave via a renewed motion that attaches the proposed amended complaint as an exhibit. Any proposed amended complaint **must** comply with the Federal Rules of Civil Procedure, in particular, Rules 8(a) and 10(b).

BY THE COURT:

/s/ Joshua D. Wolson
JOSHUA D. WOLSON, J.